

**THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Allen Conley,	:	Case No.
	:	
Plaintiff,	:	Judge
	:	
vs.	:	<u>ANSWER AND AFFIRMATIVE</u>
	:	<u>DEFENSES OF DEFENDANT</u>
Walmart, Inc.	:	<u>WALMART INC.</u>
	:	
Defendant.	:	<i>Jury Demand Endorsed Hereon</i>
	:	
	:	Taylor C. Knight (0089531)
	:	Brittany H. Asmus (0095142)
	:	REMINER CO., L.P.A.
	:	One SeaGate, Suite 1600
	:	Toledo, Ohio 43604
	:	Telephone: (419) 254-1311
	:	Fax: (419) 243-7830
	:	E-mail: tknight@reminger.com
	:	
	:	Counsel for Defendant
	:	Walmart, Inc.
	:	

Now comes Defendant, Walmart Inc., by and through counsel, Reminger Co., LPA, and for its answer to Plaintiff's Complaint states as follows:

ANSWER TO FIRST CLAIM

1. Defendant denies the allegations contained in paragraph 1 of Plaintiff's Complaint.
2. Defendant denies the allegations contained in Paragraph 2 of Plaintiff's Complaint.
3. Defendant denies the allegations contained in Paragraph 3 of Plaintiff's Complaint.

4. Defendant denies the allegations contained in Paragraph 4 of Plaintiff's Complaint.
5. Defendant denies the allegations contained in Paragraph 5 of Plaintiff's Complaint.
6. Defendant denies the allegations contained in Paragraph 6 of Plaintiff's Complaint.
7. Defendant denies the allegations contained in Paragraph 7 of Plaintiff's Complaint.
8. Defendant denies the allegations contained in Paragraph 8 of Plaintiff's Complaint.

GENERAL DENIAL

Defendant hereby generally denies any and all allegations contained in the Plaintiff's Complaint that have not been specifically admitted or otherwise responded to herein.

ANSWER TO PRAYER FOR RELIEF

Defendant denies the allegations set forth in Plaintiff's Prayer for Relief of the Complaint.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted.
2. Defendant asserts the defense of comparative fault.
3. Plaintiff's claims are barred, in whole or in part, by contributory or comparative negligence.
4. The damages and injuries alleged by Plaintiff were proximately caused, or resulted from actions for which Defendant has no legal liability.
5. Plaintiff has failed in her duty to mitigate or minimize his alleged damages, if any.
6. Defendant asserts the defense of primary assumption of the risk.
7. Defendant did not have notice, either actual or constructive, of the alleged hazard.

8. Plaintiff's claims are barred due to superseding and/or intervening causes.
9. Plaintiff may have failed to join all necessary or indispensable parties to this action.
10. Plaintiffs' injuries were caused by an open and obvious condition for which Defendant has no legal responsibility.
11. The injuries for which Plaintiff now complains are causally and proximately related to a pre-existing medical condition and/or prior injury for which this Defendant bears no legal liability.
12. Defendant incorporates all affirmative defenses under Ohio and Federal law, including those contained in Civ.R 12(B), as if fully re-written herein and as determined to be applicable after an opportunity to conduct discovery in this matter.
13. Defendant reserves the right to assert additional defenses should the investigation and discovery in this action demonstrate their applicability.

WHEREFORE, Defendant, Walmart Inc., prays that this Answer be deemed sufficient and that Plaintiff's Complaint be dismissed at Plaintiff's costs and for all further applicable legal and equitable relief.

Respectfully submitted,

/s/ Taylor C. Knight

Taylor C. Knight (0089531)

Brittany H. Asmus (0005142)

REMINER CO., L.P.A.

One Seagate, Suite 1600

Toledo, Ohio 43604

Phone: 419-254-1311

Fax: 419-243-7830

E-Mail: tknight@reminger.com

E-Mail: basmus@reminger.com

Counsel for Defendant

JURY DEMAND

Defendant requests a trial by jury on the issues of the within matter.

/s/ Taylor C. Knight
Taylor C. Knight (0089531)

CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2020, a copy of foregoing was filed electronically with the Court. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.

/s/ Taylor C. Knight
Taylor C. Knight (0089531)
Brittany H. Asmus (0095142)

Counsel for Defendant Walmart Inc.